

(ii) Affirmative steps that may include any of the following:

(A) Obtaining from the foreign processor the HACCP and sanitation monitoring records required by this part that relate to the specific lot of fish or fishery products being offered for import;

(B) Obtaining either a continuing or lot-by-lot certificate from an appropriate foreign government inspection authority or competent third party certifying that the imported fish or fishery product is or was processed in accordance with the requirements of this part;

(C) Regularly inspecting the foreign processor's facilities to ensure that the imported fish or fishery product is being processed in accordance with the requirements of this part;

(D) Maintaining on file a copy, in English, of the foreign processor's HACCP plan, and a written guarantee from the foreign processor that the imported fish or fishery product is processed in accordance with the requirements of the part;

(E) Periodically testing the imported fish or fishery product, and maintaining on file a copy, in English, of a written guarantee from the foreign processor that the imported fish or fishery product is processed in accordance with the requirements of this part or,

(F) Other such verification measures as appropriate that provide an equivalent level of assurance of compliance with the requirements of this part.

(b) *Competent third party.* An importer may hire a competent third party to assist with or perform any or all of the verification activities specified in paragraph (a)(2) of this section, including writing the importer's verification procedures on the importer's behalf.

(c) *Records.* The importer shall maintain records, in English, that document the performance and results of the affirmative steps specified in paragraph (a)(2)(ii) of this section. These records shall be subject to the applicable provisions of § 123.9.

(d) *Determination of compliance.* There must be evidence that all fish and fishery products offered for entry into the United States have been processed under conditions that comply with this part. If assurances do not exist that the

imported fish or fishery product has been processed under conditions that are equivalent to those required of domestic processors under this part, the product will appear to be adulterated and will be denied entry.

### **Subpart B—Smoked and Smoke-Flavored Fishery Products**

#### **§ 123.15 General.**

This subpart augments subpart A of this part by setting forth specific requirements for processing smoked and smoke-flavored fishery products.

#### **§ 123.16 Process controls.**

In order to meet the requirements of subpart A of this part, processors of smoked and smoke-flavored fishery products, except those subject to the requirements of part 113 or 114 of this chapter, shall include in their HACCP plans how they are controlling the food safety hazard associated with the formation of toxin by *Clostridium botulinum* for at least as long as the shelf life of the product under normal and moderate abuse conditions.

### **Subpart C—Raw Molluscan Shellfish**

#### **§ 123.20 General.**

This subpart augments subpart A of this part by setting forth specific requirements for processing fresh or frozen molluscan shellfish, where such processing does not include a treatment that ensures the destruction of vegetative cells of microorganisms of public health concern.

#### **§ 123.28 Source controls.**

(a) In order to meet the requirements of subpart A of this part as they apply to microbiological contamination, chemical contamination, natural toxins, and related food safety hazards, processors shall include in their HACCP plans how they are controlling the origin of the molluscan shellfish they process to ensure that the conditions of paragraphs (b), (c), and (d) of this section are met.

(b) Processors shall only process molluscan shellfish harvested from growing waters approved for harvesting